



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/624,130	03/29/96	CRIFE T	96.065

PETER D MCDERMOTT  
BANNER & ALLEGRETTI LTD  
TEN SOUTH WACKER DR  
CHICAGO IL 60606

C5M1/0502

EXAMINER

COHEN, C

ART UNIT

PAPER NUMBER

3509

DATE MAILED: 05/02/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/624,130

Applicant(s)

Cripe et al

Examiner

Curtis Cohen

Group Art Unit

3509



☒ Responsive to communication(s) filed on Mar 29, 1996

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-30 is/are pending in the application.

Of the above, claim(s) 18-21 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-17 and 22-30 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17,22-30, drawn to the apparatus, classified in class 49, subclass 360.
- II. Claims 18-21, drawn to the method of installing the apparatus, classified in class 29, subclass 401.2.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as:

1. Mounting the drive bracket.
2. Mounting the drive apparatus on the drive bracket.
3. Then mounting the cables onto the window pane.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, a restriction for examination purposes as indicated is proper.

During a telephone conversation with Peter McDermott on 4/2/97 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-17,22-30. Affirmation

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of this election must be made by applicant in responding to this Office action. Claims 18-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

1. Claims 1-17, 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the vehicle body" in line 2 & 10. There is insufficient antecedent basis for this limitation in the claim.

Claims 1, 4 & 27 recite the subcombination of a vehicle window with a vehicle body being functionally recited. Then later in each claim, applicant attaches a structure to the vehicle body thereby claiming the combination. It is not clear whether the combination of a window and the vehicle body is being claimed or, is applicant claiming the subcombination of a window. If it is applicant's intent to claim the subcombination, then the vehicle body must be referred to functionally. One example of this problem is found in claims 1 & 4, lines 10 & 13, respectively, "the drive apparatus mounted to the vehicle body." Claim 22 line 4-5, "facing a passenger compartment of the motor vehicle body." Applicant must review all of the independent claims for this error and make the appropriate changes. The examiner will assume that the combination is being claimed until applicant indicates otherwise.

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***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17, 22-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kollar et al #5,531,046 in view of Tschirschwitz et al #5,333,411. Kollar teaches a motor vehicle window construction comprising frame means for mounting in a window recess in the vehicle body comprising a circumferential frame member 32. Kollar further teaches a slider subassembly comprising a transparent pane 346. The pane is slidably mounted in the frame means for sliding laterally back and forth between a full open position and a closed position. Pull-pull drive subassembly 370 moves the slider subassembly laterally back and forth between its full open and closed positions. The subassembly has a drive apparatus mounted to the vehicle body remote from the circumferential frame member. The drive apparatus includes a drive motor 420 having an output member 106 and a drive drum 110 operatively engaging the output member for rotation upon actuation of the drive motor. A drive tape 140 is attached to the slider subassembly and is wrapped around the drive drum for pulling the slider subassembly in a first direction and a second direction. The slider subassembly and drive tape together form a closed loop. The drive loop has a first drive tape segment extending laterally from the slider

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subassembly toward a left side of the frame member and a second drive tape segment extending laterally from the slider subassembly toward a right side of the frame member (see figure 1). The first drive tape extends in a first tape channel in a substantially horizontal lower portion of the frame member. The second drive tape segment extends in a second tape channel in the lower portion of the frame member. The first tape channel is located on the right side of the main channel and the second tape channel is located on the left side of the channel. Claim 5 the lower edge of the sliding transparent pane slides within the channel. A first tape fastener 460 is attached to the transparent pane at the first lower corner and to the first end of the drive tape and a second tape fastener 470 (opposite side) is attached to the transparent pane at the second lower corner and to the second end of the drive tape. The first and second cable fasteners are slidingly received in the slider travel channel when the slider subassembly is between its closed and full open positions. The first and second tape fasteners each comprises a flange, shown in figure 14 at the tip of the arrow 470, having a slot, near 446, receiving the drive tape. The first and second portions of the drive tape enter the first and second tape channels at first and second entry points near the edges where the first and second travel end points begin. The first and second cable channels each have at least a portion with a closed cross sectional configuration within the lower portion of the frame member near the end portions 370. The slider travel channel has an upwardly open cross-sectional configuration as shown in figure 12. Kollar lacks a *cable* drive with an outer conduit. Tschirschwitz et al teach a pull/pull cable drive system with a cable 4 and an outer conduit. It would have been obvious to one having ordinary skill in the art, at the time

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the invention was made, to use a cable with a conduit to protect the cable from rubbing against other components which would compromise the integrity of both the cable and said components. The conduit also keeps the cable from rattling against other car components. Kollar also lacks a first cable directional block affixed to the lower portion of the frame member at the first entry point and a second cable directional block affixed to the lower portion of the frame member at the second entry point. Each of the first and second cable directional blocks comprises a socket to releasably hold a corresponding first end of the conduit and an internal passageway for guiding the drive cable toward the first and second locations, respectively. Tschirschwitz teaches a first and a second cable block that receive a cable conduit in a socket. The cable blocks also contain a passage way to let the cable portion pass through as shown in Figure 1. It would have been further obvious to use a cable block to hold the conduit in place and keep it from sliding with the inner cable. As shown in figure 3 of Kollar, the left and right conduit attachment brackets and the lower horizontal portion of the frame having mating stud 119 and hole configurations. Claim 16- Kollar lacks a first and second cable directional block affixed to two fixed-position window panes where the directional blocks include a socket and an internal passage way. Tschirschwitz teaches cable blocks located on the end of the guide track. The cable blocks receive the cable conduit in a socket and allow the cable to pass through the block eventually connecting to a window regulator. It would have been obvious to one having ordinary skill in the art, at the time of applicant's invention, to use a cable block that holds the cable conduit while the cable is passed through the block to the window regulator. Claim 17- Kollar teaches a window bracket

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50 bonded to the window, column 9 lines 10-13, which performs the same function as applicant's invention. The window bracket that is bonded to the fixed pane and the cable that is directly bonded to the fixed pane, use an adhesive to attach the cable to the window. The window bracket distributes the force applied to the window from the cable. Mounting the cable blocks to the fixed window panes is an obvious modification of the assembly. There is no functional advantage by mounting the cable blocks on the fixed window versus mounting the cable blocks to the frame.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Cohen whose telephone number is (703) 308-2106.

  
ANTHONY KNIGHT  
PRIMARY EXAMINER  
GROUP 3500

C. Cohen 

April 28, 1997